at the appointment of his administrator. *Crapo* v. *The City of Syracuse*, 76 N. E. Rep. 465.

The dissenting opinion rests largely upon the position that it is undesirable and against the policy of all statutes of limitations to leave it in the power of the next of kin to postpone the suit indefinitely by delaying to have an administrator appointed. This argument has added force in that the next of kin, as designated by the statute, are the real beneficiaries of the suit, and it seems equitable that the suit by the administrator, practically a mere trustee, should be barred by the laches of the *cestuis*. This view has generally been adopted by legislatures, for by far the greater number of statutes provide that the suit shall be barred in a certain period after the death.[5] But can this result be reached when the statute provides that the limitation shall run from the accrual of the action? It has been reached, on the ground that the legislature must have intended the same result in both cases.[6] But it is hard to see how the words of the statute can fairly be construed so as to give this result. The cause of action must accrue to the personal representative, since he alone is authorized to sue, and so how can there be any accrual of the cause of action until his appointment? Moreover, though a cause of action may exist in some one who is for the time unable to enforce it, there can be no conception of a cause of action that does not exist as a right of some person.[7] Thus, it seems, the reason that unity of ownership of dominant and servient tenements extinguishes the easement, is that, as no man is able to have a right against himself, so there is no person to whom the right may adhere, and the right cannot exist unattached.[8] This conclusion is supported [8] by the analogy of the case where a trespass is committed against the estate of the deceased, when it is held that the statute of limitations does not begin to run until the appointment of the administrator.[9]

ANTENUPTIAL FRAUDS ON THE MARITAL RIGHTS OF A FUTURE SPOUSE. — The doctrine is now well settled in the United States that equity will aid either spouse to establish his or her marital rights in property voluntarily and secretly conveyed away by the other, before marriage and after betrothal, with an intent to defeat such rights. In England this protection is given only to the husband, but the American doctrine, which vouchsafes equal rights to both spouses, seems not only right upon principle, but more in accord with modern ideas of justice.[1] The Supreme Court of Illinois recently held that equity would give a wife dower and homestead in land voluntarily conveyed by her husband, by a deed not recorded until after marriage, even though at the time of conveyance he had never met the complainant, since the deed was made with a general intent to defeat the

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[5] County *v.* Pacific, etc., Co., 68 N. J. Law 273; George *v.* Chicago, etc., Ry. Co., 51 Wis. 603; Lake Shore, etc., Ry. Co. *v.* Dylinski, 67 Ill. App. 114; Taylor *v.* Cranberry, etc., Co., 94 N. C. 525. Some statutes expressly make the limitation on the new cause of action run from the time of the injury. Rugland *v.* Anderson, 30 Minn. 386.

[6] Carden *v.* L. & N. R. R., 101 Ky. 113.

[7] Sherman *v.* Western Stage Co., 24 Ia. 515.

[8] Andrews *v.* Hartford, etc., R. Co., 34 Conn. 57; Barnes *v.* City of Brooklyn, 22 N. Y. App. Div. 520.

[9] Bucklin *v.* Ford, 5 Barb. (N. Y.) 393.

[1] Chandler *v.* Hollingsworth, 3 Del. Ch. 99.

marital rights of any person he might thereafter marry. *Higgins* v. *Higgins*, 76 N. E. Rep. 86. The court decided that, as a conveyance made with a general intent to defraud future creditors may be avoided by them, the wife, being in an analogous position, may also have relief.

At what time such a conveyance must be made in order that relief will be given is a question on which there are conflicting views. Some courts hold that there must be clear proof of an existing engagement at the time the conveyance is made;[2] others that relief will be given if the conveyance is made during the intimate relationship of courtship.[3] It is interesting to note that in the latter cases the conveyance was made pending negotiations for property settlements.[4] No court or text writer seems to have intimated that a conveyance will be impeached unless there be fraud intended upon some particular person, though one judge carefully refused to express an opinion until the question should arise for decision.[5]

Betrothal creates a status,[6] and the reason for interference is that there is a fraud on this status.[7] The true ground for the relief is not the disappointment of an expectation, but fraud on a legal right, — that is, the right to a marriage without any secret alteration of the circumstances as they stood at the time of betrothal, — and therefore knowledge at the time of entering the relation as to the amount of the other's property is immaterial.[8] It would accordingly seem that the right to relief flows directly from the betrothal, and no alienation made before that can be complained of. A line must be drawn somewhere, and to go back into the period before betrothal, and even before acquaintance, seems to require a needless solicitude for the protection of the wife at the expense of innocent donees.

If, then, in the principal case there are no equitable rights founded on fraud, neither are there any legal rights founded on the fact that the deed was unrecorded until after marriage.[9] Even under a statute holding unrecorded deeds good only against the grantor and his heirs, it is held that the wife's rights are served only out of the seisin of the husband during coverture, and that the unrecorded deed divested him of that.[10] Therefore it would seem that the doctrine of the principal case is unsound from any common law standpoint; and it is very doubtful if it can be sustained even under a narrow construction of the Illinois statute against conveyances in fraud of "creditors or other persons."

CONSTITUTIONALITY OF THE NEW YORK STOCK TRANSFER STAMP TAX. — The impossibility of devising a system of taxation that shall distribute the burdens of government equitably, and the expediency of leaving a large discretion to the legislatures, have moved the courts to construe narrowly section one of the Fourteenth Amendment, and similar sections of the state constitutions. The line beyond which the legislature cannot go is

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[2] Gregory *v.* Winston, 23 Gratt. (Va.) 102.
[3] See 2 Bishop, Law of Married Women § 342.
[4] See cases cited by Bishop, *supra.*
[5] See Goddard *v.* Snow, 1 Russ. 485.
[6] See Frost *v.* Knight, L. R. 7 Exch. 111.
[7] See 14 HARV. L. REV. 452.
[8] Chandler *v.* Hollingsworth, *supra.*
[9] Richardson *v.* Skofield, 45 Me. 386.
[10] Blood *v.* Blood, 23 Pick. (Mass.) 80.